



Deval L. Patrick
Governor

Andrea J. Cabral
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Architectural Access Board
One Ashburton Place, Room 1310
Boston, Massachusetts 02108-1618

Phone 617-727-0660

Fax 617-727-0665

www.mass.gov/dps

Thomas G. Gatzunis, P.E.
Commissioner

Thomas P. Hopkins
Director

Board Meeting Minutes – August 25, 2014

21st Floor – Conference Room 1

Present Board Members:

- Walter White, Executive Office of Public Safety Designee, Chair (WW)
- Myra Berloff, Massachusetts Office on Disability Director (MB)
- Raymond Glazier, Executive Office on Elder Affairs Designee (RG)
- Diane McLeod, Vice Chair (DM)
- Andrew Bedar, Member (AB)
- George Delegas, Member (GD)

and

- Kate Sutton, Program Coordinator/Clerk for Proceedings (KS)

Members Not Present:

- Carol Steinberg, Member (CS)

- Meeting began at 9:00 a.m.

1) Discussion: Roll Call

WW - Call to order all but Carol Steinberg present

2) Discussion: Littleton Pub, 486 King St., Littleton (V13-324)

TH - EXHIBIT – compliance photographs submitted by Brian Burke on July 15, 2014

- pictures showing the ramp being shaved down and only one handrail
- if accepted, need a variance to 24.5 for only one handrail at the ramp

AB - accept the ramp as proposed and grant the variance for 24.5, for a handrail at one side

DM - second – carries with RG opposed

3) Incoming Discussion: BART Charter School, 1 Commercial St., Adams (V14-198)

TH - EXHIBIT- August 21, 2014 Kristen Whitsett, new plan for vertical wheelchair lift installation
- previously denied request for platform of 34” x 48” due to the location of adjacent door, and raised lift with a ramp
- proposing platform size of 34” x 54”, and door swing issue has been eliminated

MB - grant as proposed

DM - second – carries unanimously

4) Incoming: Administration Building for Winchendon School, 172 Ash St., Winchendon (V14-213)

TH - EXHIBIT – variance application and supplemental information
- seeking variance to 26.6.3, propose automatic door opener to mitigate the issues of clearance at the men’s room door
- they do not have 60” in front of the door
- existing building

AB - grant on the condition that interior and exterior auto openers are installed

DM - second – carries unanimously

5) Incoming Discussion: 251 Bowdoin Street, Dorchester (V14-188)

TH - previously reviewed on July 28th
- EXHIBIT – August 19, 2014 received letter from Thomas White stating that ISD will not allow the installation of the incline wheelchair lift on the stairs due to egress requirements

MB - based on the letter from Boston ISD, require that the Petitioner look into vertical access alternatives, and submit alternate design to the Board for their approval

AB - second- carries unanimously

6) Incoming: Lincoln Congregational Church, 180 Oak St., Brockton (V14-216)

TH - EXHIBIT – variance application and supplemental information
- new building
- built under the idea that the church is exempt, based on ADA, and therefore no consideration for access (access to baptismal font and second floor)
- Mark Dempsey, Compliance Officer for the Board, conducted a site visit
- issue is the access to the stage and access to the second floor
- Arthur Choo is the designer on this project; based on the fact that there have been multiple cases where his firm had created compliance issues
- full occupancy was given, based on the affidavit from Arthur Choo, which did note that there were issues with 521 CMR
- occupancy permit states that variance must be in place for baptismal font
- three steps up to stage and then up and into baptismal font
- offer to do alternate baptisms
- also seeking up to 5 years for the lack of vertical access to the second floor

DM - deny

MB - second – carries unanimously

RG - *schedule and hearing and subpoena the architect to appear*
MB - *second – carries unanimously*

7) Incoming: Lincoln Congregational Church, 180 Oak St., Brockton (V14-216) – Continued

MB - *subpoena the Building Official responsible for issuing the occupancy permit for the church, based on the submittal of the architects affidavit*

RG - *second – carries unanimously*

8) Discussion: Motion to go into Executive Session to discuss matters in litigation

MB - *motion to go into executive session to discuss ongoing litigation of Ocean Realty Corp.*

DM - *second – carries unanimously with roll call vote*

Deirdre Hosler, Deputy General Counsel for Department of Public Safety (DH) - Present

DM - *motion to go back into regular session*

MB - *second – carries unanimously with roll call vote*

9) Discussion: Discussion of memo dated August 22, 2014 – variances to be approved administratively

Deirdre Hosler, Deputy General Counsel present (DH)

EXHIBIT – August 22, 2014 memo to Board Members and Legal Department

MB - *only issue would be for time extensions, would only be for first requests*

DH - *and would just need to have a list of what was approved administratively*

MB - *for front entrances maneuvering clearances, only in cases where technologically infeasible to comply and would result in no access if still an issue*

DH left the room

GD - *36 inches allowed for ramp*

TH - *only with ramps where impracticability has been proven*

KS - *all are based on impracticability being proven*

RG - *should be stated in each not that based on “impracticability” (521 CMR 5)*

AB - *outlets and the glazing, required outlets at certain heights, so proposed on the floor and with additional outlets within reach ranges*

MB - *yes that is a good one to add*

- *just as long as the language on the document is tight*

- move to next meeting

10) Incoming Discussion: Union Crossing, Duck Mills, 4 Union St., Lawrence (V14-200)

TH - EXHIBIT – August 21, 2014 submittal from Kevin Hastings seeking additional 60 days to submit requested material
- notice of action on August 13, 2014, and required additional information about the installation of a lift versus a LULA, to be submitted by September 5, 2014
- they originally proposed the use of a vertical lift

MB - *grant extension of submittal date for 60 days*
DM - *second – carries unanimously*

11) Discussion: Acton Women's Club, 504 Main St., Acton (V11-108)

TH - EXHIBIT – August 8, 2014, status update from Laurie Lewis, Carolyn Kilpatrick and Maureen McHue
- EXHIBIT - August 11, 2014 email from Building Commissioner Frank Ramsbottom that the permit was issued for the addition housing the installation of the vertical wheelchair lift
- grant from Town of Acton to install the vertical wheelchair lift

MB - *accept the status report and to acknowledge the support of their efforts and look forward to the completion of the project*
DM - *second – carries unanimously*

12) Incoming Discussion: Staircases at Longfellow Bridge, Route 3A, Boston/Cambridge (V14-194)

TH - EXHIBIT – August 21, 2014 letter from Ann Gorczyca of MassDOT following to up the August 14, 2014 Notice of Action
- they are seeking to have one handrail installed on the parapet walls and not on the towers
- previously no handrails

MB - *grant as proposed, on the condition that a sample profile of the handrail be submitted prior to installation*
DM - *second – carries unanimously*

13) Discussion: Commuter Rail Station, 1 Upland Rd., Sharon (C11-051 & V12-225)

TH - EXHIBIT – August 11, 2014 letter from Laura Brelsford, Assistant General Manager for Systemwide Access for the MBTA
- work completed at the construction of the mini-high platform at the inbound platform with the outbound platform to be completed by next week
- new walkways, parking, pay station heights
- made improvements to the depot building, accessible toilet rooms, counter heights and entrances

DM - *accept*
RG - *second – carries unanimously*

14) Advisory Opinion: Railroad Bridge, Lagrange Street, Commuter Rail Station, West Roxbury

TH - single lane rail road bridge work cost \$4 million +
- bridge comes up to MBTA property
- does the work on the bridge trigger work on the adjacent station, since both owned by MBTA
- station is usable

MB - no different than curb cuts on sidewalk reconstruction project

TH - no sidewalks on the bridge

MB - wouldn't trigger compliance for the entire station, but if there is a path of travel off of the bridge, then create route into the station

TH - only a railway bridge, no pedestrian access

MB - work does not trigger compliance at the station since only on the railroad bridge

DM - second - carries unanimously

DM left the room

15) Incoming: Longfellow, 492-496 Mass. Ave., Cambridge (V14-211)

TH - EXHIBIT –variance application and supplemental information
- existing building with tenant fit out for restaurant use
- seeking two variances for 25.1 for the main corner entrance
- slope of 19% at the entrance

MB - deny the variance for the sloped landing at the entrance

RG - second – carries unanimously

TH - corner entrance is the other variance sought to have no access at this entrance

MB - premature to grant the variance for the lack of entrance on the corner entrance

MB - grant the variance on the corner entrance on the condition that the second entrance is brought into compliance with the applicable requirements of 521 CMR.

AB - second – carries unanimously

16) Incoming: Clapp Hall, Mt. Holyoke College, 50 College St., South Hadley (V14-210)

TH - EXHIBIT –variance application and supplemental information
- 4 story academic building plus basement
- renovation of first floor lobby at entrance and demo of existing stairs
- proposed ramp access with double doors into the lobby

DM now present

MB - issue of protruding object, have to shorten the handrail

MB - grant the variance for the pinch points on the ramp, on the condition that the handrail on the open side of the ramp at the radiator side of the ramp at the open side be eliminated since it is a protruding object

AB - second – carries with DM abstaining

WW left the room, DM as Acting Chair

17) Incoming: MIT Building W15, MIT Chapel, 48 Massachusetts Avenue Rear, Cambridge (V14-214)

- TH - EXHIBIT –variance application and supplemental information
- 2 level building, accessible from walkways at south and north
- spending \$3.5 million, over 30%
- seeking variance relief for existing stair handrails, no vertical access, no public toilet rooms

MB - *deny all*

AB - *second – carries unanimously*

18) Incoming: Mallory Hall, Dexter Health Center, American International College, 100 State Street, Springfield (V14-209)

- TH - EXHIBIT –variance application and supplemental information
- jurisdiction is 3.3.1b, work performed
- out of compliance ramp and seeking to install vertical wheelchair lift instead at the exterior
- no assessed value given

MB - *hearing*

RG - *second – carries unanimously*

WW now present, Chair

19) Incoming: Acton Town Hall, 472 Main Street, Acton (V14-212)

- TH - EXHIBIT –variance application and supplemental information
- seeking a time variance for the lack of access at the first floor toilet rooms in the interim of the construction at the first floor (closing of the hallway where the first floor toilet rooms are located) and have people use the elevator up to the second floor accessible toilet rooms
- Acton Disability Commission support with some conditions, EXHIBIT – e-mail on August 22, 2014 from Danny Factor

MB – grant time variance as requested, on the condition that proper notice is provided directing people to the second floor accessible toilet rooms

DM - *second – carries unanimously*

20) Advisory Opinion: Berklee College of Music, entrance doors, 138-152 Mass. Ave., Boston (521 CMR 25.1)

- TH - EXHIBIT - August 8, 2014 submittal from Zachary Stanesa of Miller Dyer Spears
- building steps at the second entrance
- plan for access at alternate entrance

MB - *variance required*

DM - *second - carries unanimously*

MB left the room

Brief Break

21) Hearing: Northern Essex Community College, 420 Common Street, Lawrence (C14-017)

- WW - called to order at 11:00 a.m.

- introduce the Board

Mark Dempsey, Compliance Officer for the Board (MD)

William Luster, Vice President of Real Estate for Higher Education Partners (WL)

Joanne Ronsivalli, Professor at Northern Essex Community College; Complainant (JR)

Gregory Arvanitis, Local Building Inspector for Lawrence (GA)

WW - all sworn in

- EXHIBIT – AAB1-42

TH - in addition to the packet, also handed out a letter from Higher Education Partners received on August 20, 2014

WW - accept the document as EXHIBIT 2

JR - moved into the building that the college had rented, getting into the building was via a traffic filled alley with a noncompliant ramp to the rear entrance with a significant threshold

- had no choice but to file a complaint since dean and assistant dean did not follow-up
- elevator door does not open all the way, malfunction of the elevator it self
- worried about students with mobility impairments
- thought the building was open to soon, since the building was not completely ready

MD - building permits listed on the complaint for a total value of \$650,000, with a building value of \$635,800

MB - motion to find in favor of the complainant

RG - second – carries unanimously

WL - agree with JR's statement that the building was open too soon and prior to access being completed
- work with colleges to open and or lease space, and then renovated the building and have the school as tenants

- complaint went to the owner of the building, and the owner sat on the notice, and then was sent to the college and forwarded to Higher Education Partners (HEP)

- as soon as the notice was received by HEP, wanted to address the issues with accessibility
- two issues dealt with city property (adjacent walkways)
- they have since built a compliant ramp and handrails will be installed, AAB 4 and 5
- AAB 5 shows changes to lobby being done
- there is no maneuvering space at the top of the ramp to get into the lobby
- semester starts next week
- bid from Otis in the HEP letter includes repair to the elevator for leveling off issue and the doorway
- not been able to find parts to level off the elevator
- quote is for a complete elevator renovation for a brand new elevator
- but cannot be done until the winter break since it is needed for access to the third floor classrooms
- also seeking another bid
- toilet is 22 inches from the wall, so trying to make it compliant

- City has a federal grant to do the parking lot and alley over
- also have removed three trees that were causing issues with the sidewalks
- some walkways have already been reconstructed and City is in the process of doing the work which will start in the spring
- hoping to have the work done by next week, only issue is with elevator work

JR - button for auto-opener at the top of the ramp

WL - button for auto-opener at entrance, if not done with school opens, there is security officer at the entrance

GA - shouldn't have let them move in until they were ready

- take the blame, and don't deal with a lot of AAB issues
- building permit has been issued for the ramp and the lobby work and will probably get a call for final inspection by the end of the week
- can revoke the occupancy and reissue a temporary certificate of occupancy

DM - is there an accommodation policy in place?

JR - have been moved out of the building with the help of teaching union

DM - what is on the first floor?

WL - bookstore and Sal's pizza and Eastern Bank

- second floor is vacant and third floor is classrooms
- elevator is leveling off between 3/8 and 3/4 of an inch above the floor now
- elevator now does open completely

DM - elevator will not be updated completely until the winter

MB - outrageous for the fact that the building was open as a community college without compliant access

- would like to see policy for students requiring access into the building
- liability issue with the lack of leveling for the elevator
- can't move classes to the first floor since no space on the first floor
- anyone with a mobility impairment needs to have their classes moved
- do you know if there are students or professors within the classes scheduled within that building?

WL - not yet

- need to send notice to all professors about the ability to accommodate classes in alternate locations

WL - 6-8 week lead time for elevator construction

WW - we deal with elevators on a regular basis, and probably won't be done within that time frame

MB - need accommodation policy in place for this year

- is the alley an active pedestrian path of travel today since the front door has been made accessible

- since the rear entrance was the only “accessible” entrance to the building previously
- can people still use that alley and the rear entrance

WL - the front door would be the most obvious choice from the parking lot
 - the back door is not that obvious

MB - are the students aware of the changes to the building
 - have students and teachers been notified of the new entrance?
 - can a letter be sent out this week

GA - that back door is required as second means of egress
 - can remove and put stairs

MB - cannot remove stairs, have to have a second accessible means of egress

WL - improvement to the front of the building is quite obvious
 - but can require the college to send out notice to students

JR - concern with new entrance is the sidewalks being repaired as a path of travel to the new entrance
 - travel to the building when using the college shuttle

WL - trees have been removed and the plan is to repair the sidewalk in the spring
 - ramp is accessible from the parking lot, but cannot fix the City sidewalk issue

MB - need to look beyond the envelope of the building, can't get in if there is no path of travel

WL - ramp does not come down on the sidewalk, comes into the parking lot
 - do understand the sidewalk issue that is in the process of being resolved

MB - can the shuttle drop students off at the building entrance and then be moved back to the sidewalk when the sidewalk work is done

JR - the parking lot is quite small, there are three buildings that the college uses
 - excess of the students park at the city parking garage, which requires use of the sidewalks
 - path of travel is the issue

MB - can the shuttle bus be on call to pick students up at the satellite garage?

WL - since do not have control over the shuttle bus, since it is run by the college, but can contact them to provide the shuttle

MB - accommodation needs to be rerouted to provide service from the satellite garage, even if it has to be on call

RG - what is the cab size of the elevator?

TH - I think that they meet the dimensional exception
- architect should provide dimensions of cab for the file

AB - who said 6-8 weeks?
WL - General Contractor

MB - require status report with notification that the students and faculty are advised that if they have mobility issues, the classroom is moved to an accessible building; arrangements made and notice sent to students that require it, that they can call the shuttle to get picked up at the public garage, until such time that the sidewalks (path of travel) to the building from the garage are completed; need to be sent out to students and faculty immediately, by this Thursday at the latest, August 28, 2014

DM - second – carries unanimously

MB - sidewalks need to be completed and in compliance along the path of travel from the garage to the building and that affect the accessible path of travel to the building, plans and dates for compliance to be submitted by August 28, 2014

DM - second – carries unanimously

MB - ramp at the rear of the building, which is part of the accessible means of egress, with plans for compliance to be submitted within 30 days receipt of decision

DM - second – carries unanimously

MB - signed contract and plan for the implementation of the elevator work submitted to the Board by October 15, 2014

RG - second – carries unanimously

MB - plan for compliance for the accessible toilet room, with dimensions, or a variance request to be submitted to the Board by October 15, 2014

DM - second – carries unanimously

MB - complete the elevator renovations be completed, inspected and ready for use by January 15, 2015

DM - second – carries unanimously

MD - part of the complaint was also parking

WL - plan to rebuild the parking lot by the City

JR - there are just two designated accessible parking spaces

WL - that is the parcel that is completely being redone by the City
- alleyway is also municipal

DM - does it serve anything else?
- looks like more than two accessible parking spaces would be required; and they should be distributed

MB - based on the number of spaces under the control of Northern Essex Community College there are certain number of accessible parking spaces required

WW - HEP does not have control over the parking lots

MB - building inspector has to review the parking plans, to make sure that there are the required number of accessible parking spaces provided and that they are van accessible parking spaces as well

MB - have the City submit a plan for the parking lot along with the number of accessible parking spaces in full compliance with the requirements of 521 CMR 23, to be submitted to the Board by October 15, 2014

DM - second – carries unanimously

DM - expedite

AB - second – carries unanimously

Lunch Break

22) Advisory Opinion Meeting: Beach Access, Beach Avenue, Westport

WW - call meeting to order at 1:00 p.m.
- introduce the Board

Ryan Mann, Westport Land Conservation Trust Executive Director (RM)

Henry Swan, Westport Land Conservation Trust Stewardship Committee Chair (HS)

Michael Ouimet, Westport Commission on Disability Secretary (MO)

Elaine Ostroff, Westport Commission on Disability Chair (EO)

WW - all sworn in
- EXHIBIT 1 – AAB1-69

EO - Commission has been working to make the town beach accessible
- new opportunity has come up to create access from Beach Avenue
- the town lot is on a rather steep slope with some limited access with a dune crossover
- but the most accessible area is at the Westport Land Conservation Trust property

MO - AAB30, parcels in green belong to the Westport Land Conservation Trust
- approached the Town to get an accessible path of travel to the beach, however the access point to the town beach is too steep even to provide a zigzag path of travel

- 89-0-164 and 167 are at the Westport River and 89-0-4 and 89-0-2-3 are at ocean side
- have asked to have access to the beach and the river from the land trust

WW - how long has the property been in custody of the land trust
RM – since 1998

EO - purpose of the meeting is to better understand the regulations and jurisdiction of the Board

MO - it was privately owned and then bought by the Land Trust and opened to the public
- access is provided via a dirt road, there was a gate put up since people were getting stuck in the road
- did put a request to Land Trust to put in mobi mats on the land trust property; and money was afforded to buy install and maintain the mobi mats by the Town on the Land Trust property

RM - all of the property are in line with the mission to preserve land in Westport for open space and working space land
- not all is public use, is all public benefit
- in the last 10 years there has not been a person asked to leave the property

WW - what would be the difference for public use?

RM - there is ecological sensitivity in this area
- trying to maintain the land in a sensitive way

WW - prefer to not have people on the property?

RM - no, have been trying to work with the commission to get access in a way that also maintains the land

MO - hope to get clarification as to what is required
- they have said that they would allow a trial to use the mobi maps on one side
- but if they decide that they do not like them (the land trust) they could be removed and therefore the purchase, installation and maintenance of the mats for one season would be a waste of money

HS - advisory opinion notice that was sent out was only noted to be on Beach Avenue and cannot bring in the other properties that the Land Trust owns, and not prepared to discuss anything other than Beach Avenue property
- prior to 1938 hurricane, there were many summer cottages in this area, they were destroyed during a hurricane
- the area is a very low lying portion of the Beach Avenue area
- it is also an area of nesting for migratory birds
- from the beginning of this “controversy” did not object to the maps, and will let them be installed to determine if there is an adverse affect
- plan to put up snow fence this year to improve the protection afforded by the dunes
- putting a good faith effort to manage the property in a responsible way
- unsure of jurisdiction of the Board over this issue

- willing to try to let the commission place the mats in an area that does not have any vegetation on it, there are plenty of space that do not have vegetation
- there are existing paths where there is no vegetation, no path were created

DM - other areas that are owned by the Westport Land Conservation Trust (WLCT)?

RM - yes, there are other areas that are open to the public

DM - are they accessible?

RM - yes there is one property that was designed into the site plan, but it is dirt and grass

- at this point there are no accessible pathways

- met with the commission and stated that they would like to provide access to three of the properties

DM - what is the difference between walking a path and using a mobi mat?

RM - there are random paths at beach areas

- not intentional that mobi mats are not in this locations; concern with sunlight to penetrate the ground naturally per the environmental regulations

- removal of the mat could be a concern with the vegetation

- there is signage placed in the area to focus people going to a certain area to access the beach

- AAB62 and 63 is response from WLCT, asking for mobi mat to comply with wetlands regulations

- need a notice of intent from wetlands regulations

- there is no problem with the mobi mat

HS - willing to have the Town put down the mobi mat

TH - is the appropriate place where the commission suggests?

MO - they stated that they would try out the mobi mats at the beach side only

- put a lot of work in thus far, and the Land Trust should have put in the letter of intent since it is there land

RM - put the letter of intent into the wetland regulations last week

- need to be careful when installing access to maintain access to the area

DM - why not the river side?

RM - more issues than just our property, specifically the road down to the end of Beach Avenue

- looking for a trial basis on a sensitive area

- AAB30 map

- we have no jurisdiction, nor do we want jurisdiction, of the road

- large vehicle would have to do a multi-point turn and could potentially damage the dunes

- the river side is an unguarded waterfront with a swift current

- do not encourage people to go to the riverfront side
- we have 6 other destination locations
- this is a storm barrier beach
- want to make sure that it is maintained
- there is not a safe way to maintain access on the Town side as well
- would like to see it on a trial basis

RG - comment that maintenance is an issue

MB - ADA technical assistance center comment

- worrying about people getting stuck in their cars, issue is also investing in mobi mats and only using them for one year
- do you have hard and fast criteria about the issues that a mobi mat could cause
- there are a lot of municipal beach front properties that use them, therefore appears to not have adverse affect on the beach
- is there a specific determination of what would be a problem

RM - criteria for issue would be agreed upon by the COD and the WLCT

- example, if the mat is laid down and not maintained, and covered with sand and not accessible
- need to establish maintenance plan, and it has been stated that the Town would maintain the mats
- what happens if mat is lost in storm, who is responsible for reinstalling it
- may be a compliant slope this year, but not next year, so how is that established

DM - even if covered in sand, still an accessible surface

- they can be maintained and taken up in a storm

Carol Steinberg, Member – Now Present (CS)

RM - only 1 part time maintenance staff for 5-6 properties

HS - do not maintain this property at all

EO - AAB8, explains offer for criteria from WLCT

- just want to know if the Board has jurisdiction over open space

TH - the Board does have jurisdiction over the land

- if the WLCT wants to try to direct people to a certain pathway then needs to maintain it as accessible as well

RM - never questioned jurisdiction of the AAB

MO - this area provides the only real spot in Westport to provide an accessible path of travel

- who's responsibility is it to maintain the property

AB - is a mobi mat the only answer?

MO - it is the only feasible means of access since this area does get breached during storms and the mats could be rolled up and removed

RM - 0-2-3 lot is the proposed area for the mobi mats

EO - picture of the area submitted
WW – accept as EXHIBIT 2

GD - cost of the mats?
EO - \$4,500 for the three mats

EO - notice of intent with department of conservation and there will be a hearing on that matter on Tuesday, September 2, 2014

DM – take the matter under advisement
AB – second – carries unanimously

RM - Horseneck Beach is also in the town with a guarded waterfront

WW - sample of mat accept as EXHIBIT 3

23) Hearing: Wendell Terrace, 19-21 Wendell Street, Cambridge (V14-082)

WW - call the hearing to order at 2:00 p.m.
- introduce the Board

Chris Rodgers, Chestnut Hill Realty, Owner's Representative (CR)

Ned Adams, Lowe Associates Architects, Inc. (NA)

Larry Braman, Resident and former member Cambridge Commission for Persons with Disabilities (LB)

Eileen Feldman, Boston Commission for Independent Living and Community Access Project, Somerville (EF)

WW - all sworn in
- EXHIBIT 1 – AAB1-25

TH - letter from Michael Muehe, and Eileen Feldman and Bill Henning dated Sunday, August 24, 2014

WW - EXHIBIT 2 – letter from Michael Muehe dated August 24, 2014 (4 pages)
- EXHIBIT 3 – letter from Bill Henning and Eileen Feldman, dated August 24, 2014 (3 pages)

TH - the matter was granted as an incoming case, and it was appealed by Michael Muehe to the current hearing, which was previously scheduled for July 16th, but had to be rescheduled due to the lack of quorum

Michael Muehe, Chair of Cambridge Commission for Persons with Disabilities now present (MM)

WW – MM sworn in

- MM
- the applicant \$780,000 on renovations to the building and it is in excess of the \$100,000 threshold and therefore requires an accessible entrance to the building
 - would like to see more argument for the lack of access than just the change in level and that compliance would not be feasible due to the need for a 42' or 75' ramp
 - did not explore all options for a ramp and lift and a ramp and lift
 - building not being accessible is not relevant, perhaps should have put in an elevator
 - would also like the Board to consider the letters from Boston Center for Independent Living (BCIL) and Larry Braman of the City of Cambridge
 - spending a quarter of a million dollars and not provide an accessible entrance is an issue
 - aging population in Cambridge and having an accessible entrance for a building like this would promote aging in place and visitability
- EF
- typo on cover page (AAB1), \$4,377,600 and not \$44,377,600
 - AAB4, letter from Disability Policy Consortium
 - it would be a substantial benefit to create access into the building
 - 5 profiles of people that this accessible entrance would be helpful for
 - the lack of an accessible entrance limits the value of the units, for people with a recent disability
 - 25 units are accessible within the inventory of 1,982 privately owned rental properties within MassHousing's Cambridge properties
 - some clients have been looking for just an apartment with an accessible entrance, cannot receive follow-up services if not an accessible dwelling, law does not allow therapist to enter buildings that are not accessible
- LB
- live within this neighborhood
 - these buildings, with split entrances, serve the local college community as well
 - testimony that relates to these statements seen in AAB7
 - if you ask for accessible housing in the area, there are none in this area, closest are in the Alewife
 - agree that a ramp is infeasible, but nothing was explored regarding a lift and nothing more to argue the infeasibility of complying with the requirements of 521 CMR
 - many people can manage, as long as they can simply get through their front door
- CR
- construction in the building is only in the basement level, to create 4 new units in the basement
 - the building is bordered at two sides by abutting properties
 - terrace entrance, with 5 stairs at the exterior up to the front door, and then an interior set of stairs up to the first floor
 - the only work is done at the basement level
 - to excavate a ramp down to the basement level
 - a lift down to the basement level is \$175,000
 - we feel that this is a substantial sum of money to access the basement space, which would not provide a substantial benefit to persons with disabilities

- DM - basement work?
- NA - there is an existing studio and an existing two bedroom in the basement
- plan is to keep the 2 bedroom unit as is, renovate the studio apartment and add four more units at the basement level
- DM - stairs at the exterior
- NA - 5 risers at the exterior and then stairs at the interior up to the first floor and down to the basement level
- DM - where was a lift proposed?
- CR - lift would be at exterior and would create access to the basement level apartments
- have to excavate, have to do the electrical work, masonry work, landscaping, and the cost of the lift
- NA - would also need to enclose the lift at the exterior which may be an issue for the first floor windows
- MB - how far down do you have to excavate
- NA - 3.5-4 feet
- MB - is there a way to run a ramp into the basement level other than a lift
- a lot of testimony that there is a lot of substantial benefit to providing access to this property
- so need to prove technologically infeasible
- NA - would need a 42 foot long ramp with landings
- MB - yes, but is there room to do so?
- would alleviate the maintenance costs of a vertical wheelchair lift
- CR - the only place that a ramp could feasibly go would be difficult along the path of the existing sidewalk to the front entrance
- would require significant retaining walls and would require routine maintenance in the winter
- would also need to address masonry structural issues regarding the building footings
- AB - would you have to underpin the wall?
- CR - don't think so, but not sure
- the existing building foundation would be an issue
- GD - what about providing access to the first floor instead?
- is there a cost associated with that
- CR - the existing units on the first floor are the original units
- NA - entrance doors are 2'6" or 2'8"

- TH - no units are required for this jurisdiction trigger
- \$100,000 only triggers requirement for AN accessible entrance
- CS - there is testimony that there is a substantial benefit to access being provided to the building, even without accessible units provided
- how long is the path to the entrance
- NA - 30 feet
- CR - and then a lift at the interior on the stairs, would create access to the first floor units
- TH - 32" doors would have a clearance of about 29.5"
- CS - stairs going up and then stairs in the interior
- WW - would you like more time to explore the ramp or lift issue?
- issue is that the spending would be 1/3 of the amount being spent
- but need a cost analysis to be submitted
- CS - require that the Petitioners submit a cost analysis of getting access to the building via an accessible entrance to a portion of the building, along with plans, submit by September 30, 2014*
- DM - second – carries with AB and GD opposed*

BRIEF BREAK

DM left for the day

24) Hearing: Residential Apartments at 1 & 3 Chauncy Street, Cambridge (V14-047 & V14-048)

- WW - called to order at 3:00 p.m.
- introduce the Board

Michael Muehe, Cambridge Commission for Persons with Disabilities Executive Director (MM)
Larry Braman, Resident and Cambridge Commission for Persons with Disabilities Former Chair (LB)
Eileen Feldman, Boston Center for Independent Living and Community Access Project (EF)
Chris Rodgers, Chestnut Hill Realty, Owner's Representative (CR)
Ned Adams, Lowe Associates Architects, Inc. (NA)

- WW - all sworn in
- EXHIBIT 1 – AAB1-53

WW - Letter from Michael Muehe dated August 24, 2014 – EXHIBIT 2

- Letter from Eileen Feldman and Bill Henning dated August 25, 2014 – EXHIBIT 3

- MM
- hearing requested based on the fact that they felt as though a variance was not appropriate in this matter
 - based on the fact that it had not been proven that compliance with the Board's regulations would be impracticable
 - the argument from the Petitioners did not prove impracticability
 - given the close proximity of the two buildings, a single accessible entrance could be provided to create access to both buildings
 - no drawings or other evidence to prove out the "impracticability" of creating access
 - spending \$980,000 in renovations of each of the buildings, properties are assessed at \$3,562,400
 - based on the Pyramid standard, if you establish a substantial benefit, the cost of compliance is not relevant
 - many people with disabilities do not need a fully compliant unit, but may need a wheelchair for energy conservation outside of their dwelling unit and not need to use a wheelchair when in their home
 - the installation of an accessible entrance would improve visitability to the buildings and would help the aging population
 - Commission requests that the variances be denied in these matters
- EF
- applicant has not demonstrated how compliance could be provided in alternate methods and the costs attached to these alternate designs
 - did not see any discussion about the fact that the creation of access to one of the buildings could create access to the other building as well
 - there is a substantial benefit to providing access to the building
 - provided examples of 5 individuals who would be provided a significant benefit by an accessible entrance
 - some clients have been looking for just an apartment with an accessible entrance, cannot receive follow-up services if not an accessible dwelling, law does not allow therapist to enter buildings that are not accessible
 - less than 1.3% of any of the privately owned dwelling units are accessible within the MassHousing Authority's Cambridge inventory
- LB
- these buildings are 1-2 blocks from the previously reviewed Wendell Street building
 - the existing building prior to renovation, has a corridor going through the middle atrium from the parking lot
 - although not Group 1 units, could have at least provided access to them
 - AAB7, letter
 - a ramp would be difficult if not infeasible in this situation, but a lift was not looked into or costed out for this case
 - can understand why huge costs are not wanted to be put on the Petitioners, but it should not be a surprise, since it is in the code and required at construction
- CS
- can only require an accessible entrance at this point in time

LB - this work is only the beginning and they will be more likely to need more work in the future

CS - require the submittal of alternate design and costs for an accessible entrance into each of the buildings, to be submitted to the Board by September 30, 2014

AB - second – carries unanimously

25) Incoming: Residential Mixed Use Building, 275 Albany St., Boston (V14-208)

TH - EXHIBIT – variance application and supplemental information
- seeking variance to sink depths with typical conditions

MB - grant with typical language regarding compliant depth sinks are readily available, so that should someone request the sink, the sink is available immediately at no cost to the tenant, with the language regarding this matter in the lease

AB - second – carries unanimously

MB - grant the variance to allow the required wall outlets to be placed in the floor, for any in the glass wall, on the condition that all other outlets comply

AB - second – carries unanimously

TH - proposing freezer on the bottom, 521 CMR 45.10 requires freezer on top

MB - bottom is out of reach range
- as long as they have clear floor space

AB - grant as proposed, on the condition that there is adequate clearances at the sides and that it falls within the reach ranges

MB - second – carries unanimously

26) Incoming: Entrance at 239 Causeway Street, 239 Causeway Street, Boston (V14-215)

TH - EXHIBIT – variance application and supplemental information
- seeking variance for 521 CMR 25.2 and 22.3, regarding the lack of access at the entrance

RG - deny

AB - second – carries with MB abstaining

27) Discussion: Blackington Building, 572 Main Street, Sturbridge (V14-007)

TH - EXHIBIT – letter from Calvin Annino of Annino Draper and Moore PC, received on August 6, 2014
- seeking reconsideration of the Board's July 30, 2014 amended decision
- they are requesting that the building be allowed to open completely to allow for funds to be raised to make the building accessible
- they are over 30%, and have already triggered full compliance with project that was already done

- seeking 5 years for the front entrance to comply and 10 years for the second floor to comply
- deadline of May of 2015 issued in decision and amended decision is coming up

AB - reopen the discussion regarding this matter

GD - second – carries unanimously

CS - require that the first floor plan be completed, with full access provided to the first floor by August 25, 2017 (including the entrances and any other work to comply in full with the applicable sections of 521 CMR)

AB - second – carries unanimously

CS - plan for access up to and throughout the second floor (in compliance with all applicable sections of 521 CMR, including 28.1)

AB - second – carries unanimously

CS - require that the plan for access to and throughout the second floor be implemented by August 25, 2019

AB - second – carries unanimously

CS - require status reports on the fund raising and construction progress, starting February 25, 2015 and every 6 months thereafter, with said status reports indicating financial updates for compliance progress

AB - second – carries unanimously

MB - notify the applicant that failure to meet the status report and compliance deadlines could result in posting of a cease and desist order on the building

AB - second – carries unanimously

GD left for the day

28) Discussion: 125 Newbury Street, Framingham – Affidavit

- TH**
- constructing new entrance into the building, called out as future tenant spaces
 - Framingham Pediatrics
 - affidavit submitted stating that the entrance is for employees only

MB - denial acceptance of affidavit since tenant not verified

AB - second – carries unanimously

29) Advisory Opinion: Advisory Opinion for light switches at unit entries

- TH**
- switch that is less than 18” from the interior corner
 - EXHIBIT - architect from Kuhn Riddle, emailed on August 15, 2014
 - can the light switch interpretation apply to doorways into bedrooms and bathrooms

MB - yes, but as long as it is at least 12 inches from the corner, if less than 12 inches, then a variance is required.

AB - second – carries unanimously

30) Incoming Discussion: Village Hall, 14 Vernon St., Framingham (V14-202)

TH - EXHIBIT – plan submittal A-1, dated June 10, 2014, submitted by Kaffee Kang
- new plan for the lift with removal of the door at the shown partition

CS - require more information in the form of photographs and dimensions

MB - second – carries unanimously

31) Discussion: Burns Family Trust Parking, 850-856 Washington St., Weymouth (C13-018)

TH - EXHIBIT – e-mail from Richard Burns on August 12, 2014, including signs and striped access aisles for the parking per the Board's decision

MB - accept the submittal of the photographs as meeting the requirements of the Board's order and therefore close this case, with the understanding that the accessible features will be maintained per 521 CMR 2.6,

AB - second – carries unanimously

32) Incoming Discussion: Myopia Hunt Club, Main Clubhouse, 435 Bay Road, South Hamilton (V14-193)

TH - failed to address the installation of the LULA with a cab size of 40" wide by 56" deep

MB - grant as proposed

AB - second – carries unanimously

33) Discussion: Westport Beach Advisory Meeting, Beach Road, Westport

MB - move the discussion to next meeting

AB - second – carries unanimously

34) Discussion: Meeting Minutes and Decisions from August 11, 2014

AB - accept the meeting minutes and decisions

RG - second – carries with MB and CS abstaining

- End of Meeting -

EXHIBITS:

- Administration Building for Winchendon School, 172 Ash St., Winchendon (V14-213) - variance application and supplemental information
- Lincoln Congregational Church, 180 Oak St., Brockton (V14-216) - variance application and supplemental information
- Longfellow, 492-496 Mass. Ave., Cambridge (V14-211) - variance application and supplemental information
- Clapp Hall, Mt. Holyoke College, 50 College St., South Hadley (V14-210) - variance application and supplemental information
- MIT Building W15, MIT Chapel, 48 Massachusetts Avenue Rear, Cambridge (V14-214) - variance application and supplemental information
- Mallory Hall, Dexter Health Center, American International College, 100 State Street, Springfield (V14-209) - variance application and supplemental information
- Acton Town Hall, 472 Main Street, Acton (V14-212) - variance application and supplemental information
- Residential Mixed Use Building, 275 Albany St., Boston (V14-208) - variance application and supplemental information
- Entrance at 239 Causeway Street, 239 Causeway Street, Boston (V14-215) - variance application and supplemental information

- Advisory Opinion for light switches at unit entries - architect from Kuhn Riddle, emailed on August 15, 2014
- Berklee College of Music, entrance doors, 138-152 Mass. Ave., Boston (521 CMR 25.1) - August 8, 2014 submittal from Zachary Stanesa of Miller Dyer Spears

- Littleton Pub, 486 King St., Littleton (V13-324) - compliance photographs submitted by Brian Burke on July 15, 2014
- BART Charter School, 1 Commercial St., Adams (V14-198) - August 21, 2014 Kristen Whitsett, new plan for vertical wheelchair lift installation
- 251 Bowdoin Street, Dorchester (V14-188) - August 19, 2014 received letter from Thomas White stating that ISD will not allow the installation of the incline wheelchair lift on the stairs due to egress requirements
- Union Crossing, Duck Mills, 4 Union St., Lawrence (V14-200) - August 21, 2014 submittal from Kevin Hastings seeking additional 60 days to submit requested material
- Acton Women's Club, 504 Main St., Acton (V11-108) - August 8, 2014, status update from Laurie Lewis, Carolyn Kilpatrick and Maureen McHue; August 11, 2014 email from Building Commissioner Frank Ramsbottom that the permit was issued for the addition housing the installation of the vertical wheelchair lift
- Staircases at Longfellow Bridge, Route 3A, Boston/Cambridge (V14-194) - August 21, 2014 letter from Ann Gorczyca of MassDOT following to up the August 14, 2014 Notice of Action
- Commuter Rail Station, 1 Upland Rd., Sharon (C11-051 & V12-225) - August 11, 2014 letter from Laura Brelsford, Assistant General Manager for Systemwide Access for the MBTA
- Blackington Building, 572 Main Street, Sturbridge (V14-007) - letter from Calvin Annino of Annino Draper and Moore PC, received on August 6, 2014
- 125 Newbury Street, Framingham - affidavit submitted stating that the entrance is for employees only

- Village Hall, 14 Vernon St., Framingham (V14-202) - plan submittal A-1, dated June 10, 2014, submitted by Kaffee Kang
- Burns Family Trust Parking, 850-856 Washington St., Weymouth (C13-018) - e-mail from Richard Burns on August 12, 2014, including signs and striped access aisles for the parking per the Board's decision